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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,232	11/12/2003	Kevin Kremeyer	24847-017	3542

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EXAMINER

SWIATEK, ROBERT P

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 02/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/705,232

Applicant(s)

KREMEYER, KEVIN

Examiner

Robert P. Swiatek

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-76 is/are pending in the application.
- 4a) Of the above claim(s) 1-28, 36-42, 50, 51 and 67-76 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 29-35, 43-49, 53-58 and 60-66 is/are allowed.
- 6) ☒ Claim(s) 52, 59 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Applicant's arguments urging rejoinder of the withdrawn claims in this application are unpersuasive; the reasons set forth in the restriction requirement mailed 15 March 2005 and reiterated and made final in the Office action mailed 23 August 2005 are believed to be valid and not capricious. Accordingly, claims 1-28, 36-42, 50, 51, 67-76 stand withdrawn.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 52, 59 are rejected under 35 U.S.C. 102(b) as being anticipated by Schoppe (US 3,620,484: Ref. on sheet 1 of the Information Disclosure Citation filed 12 November 2003). The Schoppe patent discloses a device and method for reducing shock waves created by a body moving through a fluid; specifically, by a flying body moving supersonically through air. As shown in Figure 3 of Schoppe, a flying body 10 includes a narrow gas tube 20 extending forwardly into an airflow surrounding the body 10. Hydrogen gas 26 is forced through the tube 20, emerging from holes at the end of the pipe and subsequently being ignited by a spark plug device 34. Between the point of ignition and the forward surface of the body 10—along this short, extended path—heat and light are emitted, forming a volume of heated fluid that would expand outwardly, albeit narrowly, from the path. The heating of the fluid—air—would occur substantially instantaneously upon ignition of the hydrogen, and the slipstream would direct the

Art Unit: 3643

burning air rearwardly and parallel to the direction of travel of the flying body. The heated cone of fluid 30' (see Figure 4 of Schoppe), being of less density than the ambient air and enveloping the forward extent of the flying body 10, consequently would produce less drag on the body. The cross-sectional area of the fluid through which the cone 30' continuously passes is deemed to constitute an "aerodynamic window."

Applicant's arguments filed 23 November 2005 have been fully considered but they are not persuasive. Claims 52, 59 are not believed allowable for the reasons set forth above.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Summary: Claims 1-28, 36-42, 50, 51, 67-76 have been withdrawn; claims 29-35, 43-49, 53-58, 60-66 have been allowed; claims 52, 59 have been rejected.

RPS: 571/272-6894
6 February 2006

Robert P. Swiatek
ROBERT P. SWIATEK
PRIMARY EXAMINER
ART UNIT 3643